

**THE  
BRONX DEFENDERS**

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860 Courtlandt Avenue, Bronx, NY 10451

(718) 838-7878 • Fax: (718) 665-0100

ECF Case

April 21, 2005

Honorable Debroah A. Batts  
United States District Judge  
Southern District of New York  
500 Pearl Street, Room 2510  
New York, New York 10007

MEMO ENDORSED

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APR 26 2005

CHAMBERS OF  
DEBORAH A. BATTS  
U.S.D.J.

Re: Michael Johnson v. City of New York, et al., 04-Civ-6858 (DAB)

Your Honor:

I am an attorney associated with The Bronx Defenders, a non-profit law office, and I represent the plaintiff in the above-captioned civil rights action. With the consent of all parties, I write respectfully to request that plaintiff's time to serve defendant PO Rodriguez and unidentified defendant Sergeant John Doe under F.R.C.P. 4(m) be enlarged *nunc pro tunc* from April 23, 2005 until June 23, 2005. Defendants' counsel has consented to this enlargement of time.

By memo-endorsed orders dated December 20, 2004 and February 18, 2005, the Court extended plaintiff's time to serve defendant PO Rodriguez and unidentified defendant Sergeant John Doe until April 23 to give the City the opportunity to locate and identify those defendants. To assist the City in that effort, plaintiff executed a waiver in December 2004 to permit the City to access court files that had been sealed pursuant to New York Criminal Procedure Law § 160.50. Assistant Corporation Counsel Alison Gugel has informed me that she expects to identify these defendants very soon, and she consents to a request for an enlargement of time for service.

Accordingly, I respectfully request, with the consent of all parties, that plaintiff's time to serve PO Rodriguez and unidentified defendant Sergeant John Doe under F.R.C.P. 4(m) be enlarged *nunc pro tunc* until June 23, 2005. I note that Rule 4(m) of the Federal Rules of Civil Procedure provides that if service of the summons and complaint is not made within 120 days after filing a court "shall extend the time for service for an appropriate period" if the plaintiff shows good cause for the failure. Fed. R. Civ. P. 4(m); see *Shider v. Communications Workers of America*, No. 95 Civ. 4908, 1999 WL 673345, at \*2 (S.D.N.Y. Aug. 30, 1999); *Blessinger v. United States*, 174 F.R.D. 29, 31 (E.D.N.Y. 1997). Even in the absence of good cause, the Court, in its discretion, may extend the time for service. See *Shider*, 1999 WL 673345, at \*2; *Gowan v. Teamsters Union* (237), 170 F.R.D. 356, 359-60 (S.D.N.Y. 1997).

SO ORDERED

*Deborah A. Batts*

DEBORAH A. BATTS  
UNITED STATES DISTRICT JUDGE

MEMO ENDORSED

granted  
DAB  
4/26/05

MEMO ENDORSED

4/26/05